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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/590,496	06/09/2000	Stephen M. Lipka	NAO-0001	2489

7590 02/14/2003

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EXAMINER

HA, NGUYEN T

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 02/14/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/590,496

Applicant(s)

LIPKA ET AL.

Examiner

Nguyen T Ha

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 is/are allowed.
- 6) ☒ Claim(s) 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. The applicant's arguments filed on 12/9/2002 are persuasive in overcoming the rejection of record. Therefore, the FINAL office action is hereby withdrawn. However, in view of the new prior art the examiner decides to make another rejection applied for claims 21-24.
2. The applicant has argued that saidi et al is silent with respect to claims 1-20. An asymmetric super-capacitor comprising a positive electrode comprising a current collector and an active material selected from the group consisting of manganese dioxide, silver oxide, iron sulfide and mixture thereof. The examiner finds this argument persuasive. Therefore, the examiner made decision to allow this limitation over the prior art of record.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wainwright et al (5,322,746) in view of Cipriano (5,085,955).

Regarding claim 21, Wainwright discloses the electrochemical cells (figures 1-5) comprising a positive electrode (2) comprises a current collector (column 10 lines 15-16) and manganese dioxide (column 10 lines 34-37), a negative electrode (1), an electrolyte (column 7 line 57-58), and a separator (3). Wainwright discloses all the limitation discussed above with respect to claim 21, except for the negative electrode comprising carbonaceous material.

However, Cipriano teaches a cathode electrode comprising carbonaceous active material (column 3 lines 35-36).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Wainwright electrochemical cell as taught by Cipriano to have a cathode electrode comprises a carbonaceous material in order to increase the power density and the capacitance for the electrochemical cell.

Regarding claim 22-24, the teaching of Cipriano includes a capacitor wherein the carbonaceous active material is nanofibrous/carbon fabric (column 3 lines 41-44).

Allowable Subject Matter

5. Claims 1-20 are allowed.

The following is an examiner's statement of reasons for allowance:

With respect to claim 1, the prior art alone or in combination does not teach the limitation of an asymmetric super-capacitor comprising a positive electrode comprising a current collector and an active material selected from the group consisting of manganese dioxide, silver oxide, iron sulfide and mixtures thereof.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Citation of Relevant Prior Art

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Tomantschger et al disclose a manganese dioxide positive.
- b. Yoneda et al disclose battery.
- c. Spillman et al disclose high temperature oxyhalide electrochemical cell.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nguyen T Ha whose telephone number is 703-308-6023. The examiner can normally be reached on Monday-Friday from 8:30Am to 6:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 703-308-3682. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3432 for regular communications and 703-305-3431 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

NH
February 10, 2003

Dean A. Reichard 2/10/03
DEAN A. REICHARD
SUPERVISOR PATENT EXAMINER
TECHNOLOGY CENTER 2831